

Included among these proteins are the elf proteins, praja-1 and pk, whose sequences are set forth in the application in Figures 2-4. Antibodies recognizing these proteins have been claimed (see Claim 15 which refers to antibodies to the proteins of claim 3), and these antibodies will be utilized together in methods of diagnosing and treating cancers of the liver and gut due to the relatedness of these early developing liver proteins. Accordingly, because of the relatedness of the proteins and the antibodies recognizing them, the restriction requirement regarding the antibodies has been traversed in that Claim 15 should be examined insofar as it relates to antibodies to the related proteins of elf, praja-1 and pk.

Finally, pursuant to MPEP 803, the restriction requirement is not proper because the Examiner has not nor cannot show that the examination of all the claims will create a serious burden, and when the search and examination of the claimed subject matter will not cause serious burden, an Examiner must search all the claimed subject matter regardless of the question of independent inventions. In the present case, although the Examiner failed to group the antibodies of Claim 15, it is clear that the Examiner considered all of the antibody claims to fall within a single subclass, namely Class 530, subclass 387.9, and thus the antibodies to elf, praja-1 and pk will fall within the same subclass as well. Since the examination of antibodies to praja-1, elf and pk will not result in a serious burden because they can all be searched in one subclass, the Examiner should proceed to search antibodies to elf, praja-1 and pk in one application.

For these reasons, it is abundantly clear that the Examiner erred in making the present restriction requirement in that she failed to recognize certain aspects of the invention as particularly embodies in Claim 15, and due to the relatedness of the proteins recognized by the antibodies of claim 15, it should be searched and examiner with regard to the antibodies recognizing elf, praja-1 or pk.

Without prejudice to the foregoing which shows that the present Restriction Requirement is traversed in part with regard to the antibodies of the present claimed, and solely for the purpose of completing the response, Applicant herein elects for examination antibodies to the elf-3 protein whose sequence is shown in Fig. 2J (SEQ ID NO: 7). Applicants attempted to contact the Examiner to discuss this election but were unable to reach the Examiner before this response was filed. Accordingly, should the Examiner wish to discuss this restriction requirement and Applicant's response further, a telephone call to the undersigned is welcomed.

Respectfully submitted,

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